

ORIGINAL APPLICATION NO.344/2020
(Sanjay Dashrath Rathod Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Heard Shri K.G.Salunke learned Advocate for the applicant and Smt. Deepali Deshpande learned Presenting Officer for the respondents.

2. The applicant is a Police Constable challenging the order dated 10-09-2020 issued by the Respondent no.2 transferring him to Jalgaon Prison. The applicant earlier was working in Prison, Beed as Constable. However, he was suspended by order dated 19-03-2020 on the ground of misconduct. His case was reviewed on 20-07-2020 and the committee reviewed his earlier postings. The letter dated 10-09-2020 written by Shri Dilip K. Zalke, Deputy Inspector General of Police, Prison & Correction, Central Division, Aurangabad has communicated in detail the procedure followed by the Government pursuant to the order of this Tribunal dated 27-08-2020 in O.A.No.304/2020; by which this Tribunal has directed the respondents to take decision on merit as per rules by giving reasonable time. Shri Dilip Zalke has informed in the letter that the applicant was earlier given posting twice at Aurangabad Central Jail i.e. from 04-07-2003 to 09-06-2009 and thereafter from 11-06-2013 to 24-07-2019.

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3. Learned Counsel for the applicant has submitted that the family of the applicant is at Aurangabad and therefore after suspension he should have been reinstated by posting at Aurangabad as requested by him. He further submits that there is a long distance between Aurangabad and Jalgaon. Learned Counsel for the applicant has also submitted that 16 posts of Constables at Aurangabad were vacant.

4. Learned P.O. opposes this application relying on the letter of Shri Dilip K. Zalke, Deputy Inspector General of Police, Prison & Correction, Central Division, Aurangabad, which is referred above.

5. Considering the submissions of both the parties and the letter of Shri Dilip Zalke which is very clear and disclosing the reasons as to why the applicant was not posted at Aurangabad. The posting at Jalgaon of the applicant is after revocation of suspension. The distance between Aurangabad and Jalgaon is approximately 130 km. The applicant contended that there were 16 vacant posts of the Constables at Aurangabad and he may be posted there. There may be 16 vacant posts at Aurangabad and other constables who are willing to come to Aurangabad can be transferred there. The applicant was

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rightly not considered for the same as earlier he was given postings for two long tenures at Aurangabad.

6. In view of above situation, there is no ground to consider the prayer of the applicant for transfer at Aurangabad. Accordingly the O.A. stands dismissed with no order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION NO.298/2020
(Ramraje Pawar Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Heard Shri K.G.Salunke learned Advocate for the applicant and Smt. Deepali Deshpande learned Chief Presenting Officer for the respondents.

2. The applicant challenges the attachment order dated 10-08-2020 sending him from Osmanabad to Bhoom. Learned Counsel submits that now by order dated 28-12-2020, he is transferred from Bhoom to Aurangabad and he is relieved from Bhoom to Aurangabad. Learned Counsel wants to amend the petition to that extent. Allowed to amend to that extent only and amended copy to be served on the other side.

3. S.O. to 04-03-2021.

CHAIRPERSON

ORIGINAL APPLICATION NO.310/2020
(Sandip Nalawade Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Shri C.V.Dharurkar learned Advocate for the applicant is **absent**. Shri V.R.Bhumkar learned Presenting Officer for the respondents is present.

2. The applicant challenges the transfer order dated 26-07-2020 passed by the respondent no.2. Reply is already filed. Case is admitted.

3. S.O. 08-03-2021.

CHAIRPERSON

**ORIGINAL APPLICATION NO.340/2020 with
Caveat No.70/2020 & 921/2020
(Kalpana Kshirsagar Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.01.2021
ORAL ORDER :**

Heard Shri Anant Devkate learned Advocate for the applicant, Shri M.P.Gude learned Presenting Officer for the respondents and Shri D.R.Irale Patil learned Advocate for respondent no.4.

2. The applicant is transferred from the post of Additional Chief Executive Officer, Zilla Parishad, Jalna to a new posting of Project Director, District Rural Development Agency, Zilla Parishad, Jalna. Reply is filed by private respondent no.4 and the reply of the Government is awaited. Learned CPO submits that he will file it on tomorrow.

3. Learned Counsel for respondent no.4 submits that the respondent has completed full term of 3 years at Parbhani as a Project Director and he is going to retire on 30-09-2022. Therefore, he has requested for the post of Additional Chief Executive Officer, Zilla Parishad, Jalna.

4. S.O. tomorrow i.e. 21-01-2021 high on board.

CHAIRPERSON

ORIGINAL APPLICATION NO.439/2020
(Bhimrao B. Bangar Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Heard Shri M.K.Deshpande learned Advocate for the applicant and Shri M.P.Gude learned Presenting Officer for the respondents.

2. Learned P.O. seeks time to file affidavit in reply on behalf of the respondents. Time is granted.
3. S.O. to 03-02-2021.

CHAIRPERSON

ORIGINAL APPLICATION NO.447/2020
(Vaishali Hinge Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Heard Shri S.D.Joshi learned Advocate for the applicant and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents.

2. Learned C.P.O. seeks time to file affidavit in reply on behalf of the respondents. Time is granted.

3. S.O. to 03-02-2021.

CHAIRPERSON

ORIGINAL APPLICATION NO.465/2020
(Ramesh Sarwade Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Heard Shri R.R.Wakekar learned Advocate holding for Shri A.D.Sugdare learned Advocate for the applicant and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents.

2. Learned Counsel Shri Deshmukh appearing for respondent no.4 private person has circulated this matter alongwith Counsel Shri R.R.Wakekar learned Counsel for the applicant.

3. Learned C.P.O. files affidavit in reply on behalf of respondent nos.1 and 2 and Shri Deshmukh files affidavit in reply on behalf of respondent no.4. Those are taken on record. Copies served on the other side.

4. S.O. tomorrow i.e. on 21-01-2021.

CHAIRPERSON

M.A.NO.214/2020 IN O.A.NO.286/2020
(Ravi Harne Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Heard Shri A.S.Deshmukh learned Advocate for the applicant in M.A., Shri K.G.Salunke learned Advocate for the applicant in O.A. and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant in O.A. files affidavit in rejoinder. It is taken on record. Copy thereof has been served on the other side.

3. S.O. to tomorrow i.e. on 21-01-2021.

CHAIRPERSON

YUK ORAL ORDERS 20.01.2021

M.A.NO.283/2020 IN O.A.NO.75/2020
(Jitendra Sarde Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Heard Shri Ganesh V. Patil learned Advocate for the applicant and Shri V.R.Bhumkar learned Presenting Officer for the respondents.

2. Learned Counsel for the applicant submits that the order of dismissal dated 12-02-2020 is to be withdrawn and his O.A.No.75/2020 to be restored. Learned Counsel submits that as the Aurangabad Bench was non-functional, he had filed this application at Mumbai and the O.A. was numbered as 1236/2019 on 31-12-2019. Thereafter, the matter was sent to Aurangabad and it was newly numbered as O.A.No.75/2020 at Aurangabad.

3. Learned Counsel for the applicant submits that he lost the track of the matter and due to oversight the matter went unattended and therefore the Counsel did not file service affidavit. He has also prayed for condonation of delay of 202 days caused for filing the M.A. for restoration.

4. Learned P.O. submits to the order of the Tribunal.

5. In view of the submissions and reasons mentioned in the application, delay of 202 days is condoned. The order

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of dismissal dated 12-02-2020 is hereby withdrawn. The O.A.No.75/2020 is hereby restored to its original status.

6. Learned Counsel for the applicant is directed to collect the notice within 2 days and serve the notice to the respondents on or before 05-02-2021 and place on record the service affidavit.

8. S.O. to 05-02-2021.

CHAIRPERSON

M.A.NO.16/2021 IN O.A.NO.406/2019
(Dayanand Kadam Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.01.2021

ORAL ORDER :

Heard Shri Chetan V. Bhadane learned Advocate for the applicant and Smt. Deepali Deshpande learned Presenting Officer for the respondents.

2. Learned Counsel submits that the O.A. was dismissed on 24-02-2020 so is the delay of 259 days in filing this M.A.

3. Learned Counsel submits that he was absent when the matter came up for hearing. Learned Counsel prays that the applicant is an old person. He has good case on merit. Learned Counsel for the applicant submits that the matter went unattended. He prays that the delay be condoned and matter be restored to its original status.

4. Learned P.O. submits to the orders of the Tribunal.

5. In view of the submissions and reasons mentioned in the application, delay of 259 days is condoned. The order of dismissal dated 24-02-2020 is hereby withdrawn. The O.A.No.406/2019 is hereby restored to its original status.

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6. Pleadings are complete. Case be kept for final hearing.

7. S.O. to 05-02-2021.

CHAIRPERSON

YUK ORAL ORDERS 20.01.2021

M.A. No. 08/2021 in O.A. St. No. 13/2021
(Rajendra A. Mali & Another Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Shri V.R. Yadav, learned Advocate holding for
Shri G.J. Kore, learned Advocate for the applicants and
Shri M.S. Mahajan, learned Chief Presenting Officer for the
respondents.

2. The application to sue jointly is allowed.

3. Accordingly, the M.A. stands disposed of with no
order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION ST. NO. 13/2021
(Rajendra A. Mali & Another Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Shri V.R. Yadav, learned Advocate holding for Shri G.J. Kore, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. These two applicants are challenging the seniority list dated 11.12.2020 and praying for considering the seniority of the applicant No. 1 from the date of appointment i.e. 24.03.1999 and claiming other reliefs.

3. Issue notices to the respondents, returnable on 11.03.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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O.A. St. 13/2021

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. S.O. to 11.03.2021

8. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

ORIGINAL APPLICATION NO. 614 OF 2018
(Dr. Minakshi B. Pathak Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri Rahul Pawar, learned Advocate for respondent Nos. 4 & 5.

2. This Original Application is filed for extension of retirement age of superannuation.

3. Learned Advocate for respondent Nos. 4 & 5 produce a communication dated 27.01.2020 issued by the Deputy Secretary Mr. R.R. Gadhari, State of Maharashtra, Public Health Department thereby extending the age of retirement of the applicant from 58 to 60 years. It is further informed that after taking benefit of that decision, the applicant retired on 30.06.2020 by giving benefit of extended period of age of retirement till 60 years.

4. In view of this, noting remains in the present O.A. for further adjudication. Hence, the present O.A. stands disposed of with no order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION NO. 203 OF 2020
(Babu H. Nagargoje Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks time for filing rejoinder affidavit. Time granted.

3. S.O. to 03.03.2021.

CHAIRPERSON

M.A. No. 279/2020 in O.A. No. 236/2020
(State of Maharashtra & Ors. Vs. Prakash U. Hasnabade)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Shri V.R. Bhumkar, learned Presenting Officer for the applicants in the present M.A. (respondents in O.A.). Shri P.S. Anerao, learned Advocate for respondent in M.A. (applicant in O.A.), **absent**.

2. Learned P.O. has submitted that the Government has moved the present M.A. for extension of time for implementation of the Tribunal's order dated 21.09.2020 passed in O.A. no. 236/2020. The said M.A. has been filed on 22.10.2020. He further submits that in the meantime the posting order to the applicant has been issued on 08.12.2020 and thus the order of the Tribunal passed in O.A. is complied with. Hence, he submits that the present M.A. has become infructuous.

3. In view thereof, the M.A. stands disposed of with no order as to costs.

CHAIRPERSON

M.A. No. 280/2020 in O.A. No. 237/2020
(State of Maharashtra & Ors. Vs. Datta A. Cheke)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Smt. Deepali S. Deshpande, learned Presenting Officer for the applicants in the present M.A. (respondents in O.A.). Shri P.S. Anerao, learned Advocate for respondent in present M.A. (applicant in O.A.), **absent**.

2. The present M.A. is filed for extension of time for compliance of the order dated 21.09.2020 wherein the directions were given to the respondents to complete the selection process for appointment on the post of Talathi within a period of four weeks from the date of that order.

3. Learned P.O. submits that the present M.A. for extension of time was filed on 22.10.2020, however the order of appointment to the applicant in pursuance to the directions given by this Tribunal has been issued on 08.12.2020. In view of this she submits that nothing remains in the present M.A.

4. In view thereof, the M.A. stands disposed of with no order as to costs.

CHAIRPERSON

M.A. No. 298/2020 in O.A. No. 314/2020
(State of Maharashtra & Ors. Vs. Sahebrao C. Pagore)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Shri M.P. Gude, learned Presenting Officer for the applicants in the present M.A. (respondents in O.A.). Shri P.S. Anerao, learned Advocate for respondent in present M.A. (applicant in O.A.), **absent**.

2. In O.A. No. 314/2020 by the order dated 31.08.2020, this Tribunal has directed the respondents to take decision within a period of three months from the date of the order.

3. Learned P.O. submits that the present M.A. was moved prior to three months i.e. on 26.11.2020 with a prayer that time of four months be extended.

4. In view thereof, as per prayer time is extended for four months which will come to an end on 30.03.2021. This is last time extended to the respondents to comply the order of this Tribunal.

5. In view thereof, the M.A. stands disposed of with no order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION NO. 232 OF 2019
(Maruti T. Kamble & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicants and Shri V.R Bhumkar, learned Presenting Officer for the respondents.

2. The 10 applicants who are working as a Sweeper Class- IV cadre at Dean, Government Medical College and Hospital, Aurangabad i.e. the respondent No. 3. All of them were appointed on or about 1989-90 and they all working on temporary basis for a period of 29 days continuously and after one day break they were reappointed throughout the years and this went on for 10 years and those appointments were given nearly for 10 years. In the year 1999, all these applicants were absorbed in the Government service and their services were regularized in pursuant to the order of the Hon'ble High Court in W.P. No. 2595/1991 and others by the order dated 13.08.2010. Thus, all these applicants now are working as regular Government servants since 1990 and they have availed the first time bound promotion after 12 years i.e. in the year 2011. Now they are due for second time bound promotion in the year 2023.

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3. However, all these applicants claiming in the present O.A. that their services from their initial date of appointment as temporary Sweeper should be taken into account for the purpose of time bound promotion and they should get the benefit of 12 years, which are to be counted from their initial date of appointment on temporary basis as temporary employee.

4. Learned Advocate for the applicant submits that all these applicants in fact are entitled to get third time bound promotion after 5-6 years and they should have given second time bound promotion 5-6 years earlier. The learned Advocate for the applicants relies on the Rule 30 and Rule 48 of the Maharashtra Civil Services (Pension) Rules, 1982, which read as under :-

“30. Commencement of qualifying service.

Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity:

48. Condonation of interruption in service.

(1) The appointing authority may, by order, condone interruptions in the service of a Government servant:

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O.A. NO. 232/2019

Provided that –

- (a) the interruption have been caused by reasons beyond the control of the Government servant;*
- (b) the total service pensionery benefit in respect of which will be lost, is not less than five years duration, excluding one or two interruptions, if any; and*
- (c) the interruption including two or more interruptions if any, does not exceed one year.”*

Learned Advocate for the applicants submits that the applicants are entitled to get the benefits of the above provisions and are entitled to get the second time bound promotion and third time bound promotion as prayed.

5. Learned P.O. pointed out that by the letter dated 30.10.2018, the Dean, Government Medical College & Hospital, Aurangabad has turned down the request of condonation of interruption of their service period as they were appointed for a period of only for continuous 29 days with break of one day and were temporary in service. Learned P.O. justified the stand taken by the respondent No. 3 i.e. the Dean, Government Medical

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College and Hospital, Aurangabad that these applicants from 1989 up to 1999 approximately were only paid wages and they were given a break of one day in every month for 10 years and the Government did not continue their services and temporary servants are not entitled to any benefit of time bound promotion.

6. S.O. to 21.01.2021.

CHAIRPERSON

**M.A. 316/2020 with M.A. 142/2020 in O.A. 34/2019
(Vinayak B. Kapse Vs. State of Maharashtra & Ors.)**

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 20.01.2021

ORAL ORDER :

Heard Shri M.B. Kolpe, learned Advocate for the
applicant and Shri M.S. Mahajan, learned Chief Presenting
Officer for the respondents.

2. S.O. to 02.02.2021 at Principal seat of this Tribunal
at Mumbai.

CHAIRPERSON

ORIGINAL APPLICATION NO. 8/2021
(Shri Ganpat M. Khokale Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri C.V. Dharurkar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The Applicant a Teacher in the Literacy Education Classes for the Prison Inmates who was facing prosecution for the offences punishable under Section 27 of the NDPS Act in Criminal Case No.3098/2015 reported in the Nashik Police Station.

3. The Applicant is acquitted. However, the Departmental Enquiry is initiated against him and after conclusion of the Departmental Enquiry, the Prison Superintendent, Aurangabad on 18.8.2018 submitted the enquiry report. In the enquiry, he was dismissed from the service by the Competent Authority i.e. Ld. Inspector General of Prisons and Correctional Services, Pune by order dated 16.7.2020. However, the Applicant has challenged the order of dismissal by preferring the appeal before the Director General of Police, State of Maharashtra which is still pending. The Applicant seeks direction to the Respondents that it is to be decided within specific time period.

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O.A.No.8/2021

4. In view of above, the Respondents are directed to decide the said appeal preferred by the applicant on or before 31.3.2021 and communicate the decision to the Applicant on or before 10.04.2021.

5. In view of above, the Original Application is disposed of with no order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION NO. 20/2021

(Shri Ramraje S. Chandane Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.1.2021

ORAL ORDER :

Heard Ms. Preeti R. Wankhade, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The Applicant who is serving as Jailor Grade -I challenges the order of suspension dated 31.12.2020 and prays that it is to be set aside and quashed and the Applicant be given all the consequential benefits including the reinstatement.

3. Issue notices to the respondents, returnable on 03.03.2021.

4. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

5. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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O.A.No.21/2021

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

8. However, the Respondents can take review after four weeks as per the ratio laid down by the Hon'ble Supreme Court in the case of ***Ajay Kumar Choudhary Thr. Its Secretary Vs. Union of India Ors, (2015) 7 SCC 291 dated 16.2.2015.***

9. S.O. to 03.03.2021.

10. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

**M.A.NO.301/2020 IN M.A.ST.NO.1310/2020 IN
O.A.ST.NO.403/2020**

**(Shri Shaikh Mohammed Noman Shaikh Aleem & Anr. Vs. State of
Maharashtra & Ors.)**

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.1.2021

ORAL ORDER :

Heard Shri Mohit R. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. This is an application preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the application, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

CHAIRPERSON

M.A.ST.NO.1310/2020 IN O.A.ST.NO.403/2020
(Shri Shaikh Mohammed Noman Shaikh Aleem & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri Mohit R. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The application is moved for condonation of delay of four year, one month and five days caused in filing the O.A.

3. Learned Counsel for the Applicant submits that the Applicants son seeks appointment on compassionate ground in the place of his father by substituting his name in the place of his mother.

4. Learned Counsel for the Applicant submits that the Applicants son is now 20 years and therefore, he is applying for his substitution. Though there is delay, it is not deliberate but due to family issues, the Applicant could not be filed the Original Application within limitation.

5. Learned C.P.O. for the Respondents opposes the M.A. for condonation of delay and submits the order of the court.

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M.A.St.1310/2020
in O.A.St.403/2020

6. In view of the submission and for the reasons given in the application, the delay caused in filing the Original Application is hereby condoned.

7. The Misc. Application St.No.1310/2020 is allowed.
No order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION ST.NO.403/2020
(Shri Shaikh Mohammed Noman Shaikh Aleem & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri Mohit R. Deshmukh, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 04.03.2021.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicants are authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

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O.A.St.No.403/2020

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.
7. S.O. to 04.03.2021.
8. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

**M.A.NO.332/2020 WITH M.A.NO.217/2019 IN
O.A.ST.NO.678/2019
(Sugan B. Rathod & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021**

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. These two applications are moved for setting aside the order of abatement passed against deceased applicant no.2 who is expired on 28.7.2020 and for bringing legal representatives of the deceased on the record of O.A..

3. Learned P.O. for the Respondents opposes the M.As. and submits the order of the court.

4. In view of the ground and reasons mentioned in the Misc. Applications, the same are allowed. No order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION ST.NO.678/2019
(Sugan B. Rathod & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 04.03.2021.
3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.
4. Applicants are authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

//2//

O.A.St.No.678/2019

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.
7. S.O. to 04.03.2021.
8. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

ORIGINAL APPLICATION NO.210/2018

(Shri Mir Farasat Mir Mohammed Ali Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.1.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent Nos. 1 to 3 and Shri Shamsundar B. Patil, learned Advocate for the Respondent No.4.

2. The Applicant who was working as a Junior Engineer in Water Resources Department prays that his 287 days leave be sanctioned as commuted leave under Rule 61 of M.C.S. (leave) Rules, 1981 and pay all consequential benefits to him.

3. The Applicant was remained absent from 5.7.2011 to 17.4.2012 i.e. period of 287 days. However, the Respondents have considered his leave as an extra ordinary leave without pay as per Rule 63 of MCS (leave) Rules, 1981.

4. The Applicant challenges the said order of granting extra ordinary leave and claiming that his 287 days leave may be granted as commuted leave under Rule 61 of MCS (leave) Rules, 1981.

//2//

O.A.No.210/2018

5. Learned Advocate for the Applicant submits that he was sick due to Jaundice and he has submitted medical certificate of one Dr. Ansari dated 18.4.2012 along with Counter signature of Civil Surgeon, Nanded. He further submits that total 620 days leave was to be credited to the Applicant as on 30.6.2013. To that effect, one certificate was also given to him. Therefore, his 287 days leave should have been considered as earned leave and not as extra ordinary leave.

6. Learned C.P.O. and learned Advocate for the Respondent No.4 both submit that the prayer of the Applicant for sanctioning of the earned leave was turned down because no specific application for earned leave was made by the Applicant but he has applied only for commuted leave. The Applicant did not apply to the department for how many days he needs leave. He did not submit application for medical leave. He sent e-mail on 7.7.2011 requesting in only one line as follows:-

‘Sir, kindly extend my leave’

7. Besides, the medical certificate produced by the Applicant of Dr. Ansari is of Pediatrician and there is no specific mention that the Applicant is suffering from Jaundice for which he has required to be taken leave of 287 days.

//3//

O.A.No.210/2018

8. Learned C.P.O. and learned Advocate for the Respondent No.4 submit that he was not entitled to commuted leave under Rule 61 of MCS (leave) Rules, 1981.

9. However, the Applicant is taken 287 days unauthorized leave. No permission was granted at any time for such leave.

10. Learned C.P.O. and learned Advocate for the Respondent No.4 submit that under these circumstances, there is no special leave admissible to the Applicant. The Respondents have rightly considered the period of 287 days as extra ordinary leave without pay.

11. Learned C.P.O. drew my attention to affidavit of Shri Iqbal Singh Chahal, Principal Secretary, Water Resources Department, Government of Maharashtra filed on 18.10.2019.

12. Learned C.P.O. pointed out that the relevant portion wherein the Principal Secretary has mentioned that the Applicant after sending e-mail on 7.7.2011 completely disappeared without any further communication and therefore no other leave can be granted to the Applicant. But the extra ordinary leave without pay can be granted.

//4//

O.A.No.210/2018

13. The matter is to be concluded. However, learned Advocate for the Applicant submits that the Applicant has asked for earned leave by submitting the proper application in requisite format. However, only for producing the copy of the Application, the present matter is fixed on tomorrow.

14. S.O. to 21.01.2021 at 10:30 am. First on board.

CHAIRPERSON

ORIGINAL APPLICATION NO. 98 OF 2019
(Shri Pandurang M. Chandanshiv Vs. State of Mah. & Ors.)

CORAM : JUSTICE MRIDULA R. BHATKAR
CHAIRPERSON

DATE : 20.01.2021

ORAL ORDER :

Heard Shri Laxman H. Kawale, learned Advocate for the applicant, Shri M.P. Gude, learned Presenting Officer for the respondent Nos. 1, 2 & 4 and Shri V.M. Chate, learned Advocate for the respondent No. 3.

2. S.O. 11.02.2021.

CHAIRPERSON

ORAL ORDERS 20.01.2021-hdd

ORIGINAL APPLICATION NO. 101 OF 2020
(Shri Milind V. Nakade Vs. State of Maharashtra & Ors.)

CORAM : JUSTICE MRIDULA R. BHATKAR
CHAIRPERSON

DATE : 20.01.2021

ORAL ORDER :

Heard Shri R.D. Khadap, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant, Mrs. Priya R. Bharaswadkar, learned Presenting Officer for the respondent Nos. 1, 2 & 5 and Shri S.B. Mene, learned Advocate for the respondent Nos. 3 & 4.

2. On the request of learned Presenting Officer, as well as, learned Advocate for respondent Nos. 3 & 4, S.O. to 02.03.2021 for filing affidavit in reply.

CHAIRPERSON

ORAL ORDERS 20.01.2021-hdd

ORIGINAL APPLICATION NO. 554 OF 2019
(Shri Ashok V. Gade Vs. State of Maharashtra & Ors.)

CORAM : JUSTICE MRIDULA R. BHATKAR
CHAIRPERSON

DATE : 20.01.2021

ORAL ORDER :

Heard Shri S.B. Pawar, learned Advocate for the applicant, Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondent No. 1 and Shri S.B. Mene, learned Advocate for the respondent Nos. 2 & 3.

2. On the request of learned Advocate for the applicant, S.O. to 02.03.2021 for filing rejoinder affidavit.

CHAIRPERSON

ORAL ORDERS 20.01.2021-hdd

ORIGINAL APPLICATION NO. 757/2018
(Bhujang S. Shete Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.1.2021

ORAL ORDER :

Heard Shri Shakil U. Shaikh, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. As the affidavit in reply has already been filed by the respondents in the present matter, the same is hereby admitted and taken up for final disposal.

3. Learned Advocate for the applicant points out in the course of admission that the applicant is aggrieved by the order dated 18.8.2018, in respect of his transfer and posting, and hence, he has challenged the same by filing the present O.A.

4. It is submitted that the applicant is retired on 31.05.2020 from the Government service. In view of this, nothing remains to be decided in the present Original Application. Therefore, the present Original Application stands disposed of as has become infructuous. There shall be no order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION NO. 879 OF 2019
(Dr. Sujitkumar S. Randive Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.1.2021

ORAL ORDER :

Heard Shri A.D. Sugdare, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 to 3. Shri Ramesh V. Naiknawre, learned Advocate for respondent No. 4 (**absent**).

2. The applicant, who is working as a Medical Officer, seeks directions that the period from 16.08.1995 to 05.07.1998 is to be considered as continuity of service and he is entitled to all the consequential pecuniary benefits. The learned Advocate for the applicant relies on the letter dated 13.12.2018 sent by District Health Officer, Zilla Parishad, Osmanabad to the Deputy Director of Health Services, Latur Circle, Latur.

3. Learned Presenting Officer submits that he wants time to file affidavit in reply.

4. In view of the relief sought and submissions made by the learned Advocate for the applicant, the present Original Application is disposed of with the following order:

The respondent No. 1 is directed to take decision in the issue of continuity of services of the applicant from

:: - 2 - ::

O.A. NO. 879 OF 2019

16.08.1995 to 05.07.1998 by taking into consideration the existing rules and law, within a period of six weeks i.e. on or before 05.03.2021 and communicate the decision to the applicant in writing.

There shall be no order as to costs.

CHAIRPERSON

ORAL ORDERS 20.1.2021-HDD

ORIGINAL APPLICATION NO. 44 OF 2020
(Smt. Asha S. Gaikwad Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.1.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. The applicant, who is widow of deceased Sandesh Gaikwad, who expired on 08.06.2010, has applied for appointment on compassionate ground. She has made an application immediately i.e. on 25.8.2010. However, her name was kept in the waiting list maintained by the Collector of the employment seekers on compassionate ground. Thereafter, in the year 2016 she was informed that her name was appearing at Sr. no. 1 in the said waiting list of the candidates to be appointed on compassionate ground. However, in the year 2016 the applicant was informed that no post was vacant and therefore in the year 2016 no appointment was given to her. However, on 6.11.2018 under Right to Information Act she got information that total 4 posts of Jr. Clerks were vacant in the respondent's department. As per the G.R. dated 11.9.2019 out of total posts, 20% posts are to be reserved for compassionate appointment.

3. The applicant, who has lost her husband at the age of 35 years become 40 years on 5.10.2015. Thereafter, the Govt. took a policy decision and increased the age from 40 years to 45 years for the persons who are claiming appointment on compassionate ground. Accordingly she was informed by the letter dated 20.5.2020 that as she has attained the age of 45 years on 10.5.2020, she is age barred and not eligible to get appointment on compassionate ground.

4. In view of the set of facts and circumstances, the submissions made by the learned Advocate for the applicant and also considering the affidavit in reply dated 4.3.2020 filed by the Home Deputy Superintendent of Police, Jalna, Shri Abhay B. Deshpande, the query made to the learned P.O. and further directions are given that the respondents should make a statement on oath that **from 2016 till 10.5.2020** no post on compassionate ground of Jr. Clerk in the respondents department was available.

5. S.O. to 21.1.2021. Matter be placed first on board.

CHAIRPERSON

ORIGINAL APPLICATION NO. 297 OF 2020
(Mahesh M. Khadtare Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

DATE : 20.1.2021

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant, Mrs. Priya R. Bharaswadkar, learned Presenting Officer for the respondent Nos. 1 & 2 and Shri S.G. Kulkarni, learned Advocate holding for Shri Ajay Deshpande, learned Advocate for the respondent Nos. 3 & 4. None appears for respondent No. 5.

2. Learned Advocate for the applicant submits that the applicant is working as District Superintendent of Land Records at Nandurbar. Nandurbar is a tribal area and he is working there since 2017 and completed 4 years tenure. The applicant relies on the Government Resolution dated 6th August, 2002. In clause 2 (d) (2) and also relies on the Government Resolution dated 11.07.2000, wherein it is stated that the Government Officers, who have posted and worked in the tribal area or difficult area minimum for 2 years are to be given posting of their choice. Learned Advocate for the applicant submits that as April & May is near, the applicant may be allowed to submit an application by mentioning places of his choice which may be considered by the Government at the time of general transfers of the year 2021.

3. Learned Presenting Officer submits that if the applicant files such an application then it can be placed before the authority competent to transfer.

4. The submissions made by the learned Advocate for the applicant are fair in view of the provisions of the G.R. and policy decision of the Government. As the applicant has worked for 4 years at Nandurbar i.e. in the tribal area, the competent authority at the time of his transfer to consider the choice given by him as he is going to submit an application on or before 31.01.2021. The Government to consider the application, which applicant would submit, at the time of general transfers of 2021 and not to deviate from its policy and provisions of G.R.

5. In view of the above, the present Original Application stands disposed of with no order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION NO. 417/2019

(Shashikant D. Guntoorkar & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri A.S. Golegaonkar, learned Advocate holding for Shri M.A. Golegaonkar, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicants seeks time to file rejoinder affidavit to the affidavit in replies of the respondents. Time granted.

3. S.O. to 24.2.2021.

CHAIRPERSON

C.P. 9/2020 IN O.A. NO. 852/2019
(Bansidhar V. Golhar & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicants seeks time to go through the Contempt Petition before advancing his arguments. Time granted.

3. S.O. to 27.2.2021.

CHAIRPERSON

ORIGINAL APPLICATION NO. 33/2021
(Ajay R. More Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that he is under instructions from the applicant to withdraw the present O.A. with liberty to file fresh O.A., if so required. He also files on record the withdrawal pursis signed by the applicant in that regard. The said withdrawal pursis is taken on record and marked as document 'X' for the purpose of identification.

3. In view of above, the present O.A. is disposed of as withdrawn with liberty to the applicant to file fresh O.A., if so required. There shall be no order as to costs.

CHAIRPERSON

ORIGINAL APPLICATION NO. 484/2020
(Dr. Balasaheb Tak Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri Amit A. Yadkikar, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant, Medical Officer, is suspended by the order dated 10.9.2020 by the Public Health Department on the ground that he did not attend the patient and subsequently the said patient expired.

3. Learned Advocate for the applicant submits that the applicant is not given any show cause notice, neither he is asked anything about this incident by the authorities and yet the enquiry is conducted against him keeping him in dark and therefore he apprehends further action by the respondent authorities.

4. Issue notice before admission to the respondents, returnable on 28.2.2021.

5. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

6. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

9. In the meantime, the respondents to take review of the enquiry case of the applicant as per the ratio laid down by the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of

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O.A. NO. 484/2020

India thorough its Secretary & Anr. [(2015) 7 SCC 291], within a period of 3 weeks from the date of this order.

10. S.O. to 28.2.2021.

11. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

ORIGINAL APPLICATION NO. 538/2020
(Sachin S. Pardeshi Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Shri Jitendra S. Gangawane, learned Advocate for the applicant (**absent**). Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents, is present.

2. The applicant, Police Constable serving at Nandurbar District Police Headquarters, challenges the termination order dated 29.5.2020 passed by the respondents and also challenges the departmental enquiry. He prays that the said order of termination and the departmental enquiry to be quashed and set aside.

3. Issue notice before admission to the respondents, returnable on 10.3.2021.

4. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

5. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

8. S.O. to 10.3.2021.

9. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

ORIGINAL APPLICATION NO. 9/2021
(Ulhas Y. Kawade Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri H.U. Dhage, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant, who was working as a Circle Inspector in Revenue & Forest Department at Kopergaon, Dist. Ahmednagar and subsequently retired, prays that the Memorandum dated 21.7.2020 initiating a departmental enquiry against him, so also the order of the Resident Deputy Collector, Ahmednagar dated 22.10.2020 by which the respondent No. 3 the Sub Divisional Magistrate, Shirdi is appointed as a Enquiry Officer in the said departmental enquiry be quashed and set aside.

3. Issue notice before admission to the respondents, returnable on 10.3.2021.

4. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

5. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

8. S.O. to 10.3.2021.

9. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

M.A. 327/2020 IN O.A. 1058/2019
(Vishal A. Avhad & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri A.P. Avhad, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Pursuant to the order dated 9.12.2019 as the notices were not collected by the applicant within 7 days and proof of service was not produced before 3 days before the returnable date, O.A. No. 1058/2019 was dismissed in default.

3. Learned Advocate for the applicants submits that due to oversight he did not collect the notices and hence the O.A. was dismissed.

4. Learned Advocate for the applicants undertakes that, if fresh notices are issued to the respondents in O.A. no. 1058/2019, he will collect the said notices within 2 days, will serve the same on both the respondents thereafter and will produce the service

::-2-:: M.A. 327/2020 IN O.A. 1058/2019

affidavit immediately. The said undertaking is taken on record.

5. In view of above undertaking given by the learned Advocate for the applicants, M.A. No. 458/2020 is allowed and disposed of and O.A. No. 1058/2019 is restored to its original file. There shall be no order as to costs.

CHAIRPERSON

O.A. 1058/2019

(Vishal A. Avhad & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri A.P. Avhad, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. Today by passing separate order in M.A. No. 458/2020 the present O.A. is restored to its original file. While disposing of said M.A. the learned Advocate for the applicants has given undertaking that, if fresh notices are issued to the respondents in O.A. no. 1058/2019, he will collect the said notices within 2 days, will serve the same on both the respondents thereafter and will produce the service affidavit immediately.

3. In the circumstances, issue fresh notices to the respondents, returnable on 3.2.2021.

4. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

5. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

8. S.O. to 3.2.2021.

9. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

M.A. 352/2020 IN O.A. ST. 1468/2020
(Shriram B. Jadhav & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. This is an application preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the application, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

CHAIRPERSON

O.A. ST. 1468/2020

(Shriram B. Jadhav & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. A group of pensioners who retired from the post of Industries Inspectors and / or Industries Officers from the Industries, Energy and Labour Department seek directions that the respondent nos. 1 to 4 to give effect to the clause No. 2(d) as contained in the Government Resolution dated 7.11.2019 regarding their revised pay scale.

3. Issue notice before admission to the respondents, returnable on 10.3.2021.

4. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

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O.A. ST. 1468/2020

5. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

8. S.O. to 10.3.2021.

9. Steno copy and Hamdast is allowed to both parties.

CHAIRPERSON

**M.A. 329/2020 IN M.A. ST. 1251/2020 IN C.P.
8/2020 IN O.A. 890/2018**
(Shaikh Hajrabee wd/o of Shaikh Dadamiya Vs. State of
Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. M.A. No. 329/2020 is moved by the applicant Smt. Shaikh Hajrabee wd/o Shaikh Dadamiya, who was the applicant No. 1 in Contempt Petition No. 8/2020, who expired on 20.9.2020. Therefore applicant Smt. Shaikh Hajrabee has filed this M.A. no. 329/2020 to set aside the order of abatement passed in C.P. as she could not move the application within 30 days from the date of death of her husband - Shri Shaikh Dadamiya. She has filed this M.A. on 20.11.2020 to come on record as applicant in C.P. No. 8/2020 in place of her late husband Shri Shaikh Dadamiya as his legal representative. There is delay of 20 days' in filing the present M.A.

**::-2-::M.A. 329/2020 IN M.A. ST. 1251/2020
IN C.P. 8/2020 IN O.A. 890/2018**

3. Learned Presenting Officer submits to the order of the Court.

4. In view of the facts and circumstances of the case and the submissions advanced by the learned Advocate for the applicants, the delay of 20 days in filing M.A. No. 329/2020 is condoned and the abatement is set aside. The applicant Smt. Shaikh Hajrabee is allowed to come on record as legal representative of late Shri Shaikh Dadamiya. Amendment to that effect be carried out in the C.P. forthwith and amended copy of C.P. be supplied to other side.

5. In the circumstances, M.A. No. 329/2020 stands disposed of. There shall be no order as to costs.

CHAIRPERSON

**M.A. ST. 1251/2020 IN C.P. 8/2020 IN O.A.
890/2018**
(Shaikh Hajrabee wd/o of Shaikh Dadamiya Vs. State of
Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. M.A. St. No. 1251/2020 is moved by the applicant Smt. Shaikh Hajrabee wd/o Shaikh Dadamiya, with a prayer that she is legal heir of late Shri Shaikh Dadamiya – applicant - in C.P. No. 8/2020. As cause in the Contempt Petition survives after the death of her husband, she wants to pursue the said C.P. and therefore she seeks leave of the Tribunal to allow her to come on record of C.P. as legal representative of Shri Shaikh Dadamiya.

3. Learned Presenting Officer submits to the order of the Court.

4. In view of above submissions, M.A. st. no. 1251/2020 is allowed and disposed of. The applicant

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**M.A. ST. 1251/2020 IN C.P. 8/2020
IN O.A. 890/2018**

Smt. Shaikh Hajrabee is allowed to come on record of C.P. No. 8/2020 as legal heir of deceased Shaikh Dadamiya and pursue the same. There shall be no order as to costs.

CHAIRPERSON

C.P. 8/2020 IN O.A. 890/2018

(Shaikh Hajrabee wd/o of Shaikh Dadamiya Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 20.1.2021

ORAL ORDER :

Heard Shri K.B. Jadhav, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. A group of applicants, who were working on temporary basis as Dhobi in Class-IV category in S.R.T.R. Government Medical College, Ambajogai have submitted the proposal for their regularization of services on the post of Dhobi / Class-IV post. This Bench of the Tribunal by the order dated 23.1.2020 passed in O.A. no. 890/2018 has directed the respondent no. 2 – the Director, Medical Education & Research, Mumbai – to decide the proposals dated 11.8.2017 and 12.6.2019 which were sent by the respondent no. 3 i.e. the Dean, S.R.T.R. Govt. Medical College, Ambajogai, within 4 weeks from the date of that order. Thus the compliance of the said order of this Tribunal was expected on or about 23.2.2020.

3. On perusal of the affidavit in reply filed by the respondent no. 2 and more particularly para no. 5 thereof it appears that the respondent no. 2 contended that as per the order of the Tribunal dated 23.2.2020 passed in O.A. no. 890/2018 the proposal dated 11.8.2017 and 12.6.2019 are already considered positively and moved the same for further approval, which is under process.

4. In the above circumstances, the learned Presenting Officer is directed to inform the date of decision taken on all these 2 proposals by the respondent no. 2 as the Tribunal has granted specific time of 4 weeks to take decision. Learned P.O. is directed to report the compliance on the above line in 2 sentences only.

5. S.O. to 21.1.2021.

6. Parties to take note that on tomorrow the matter will be decided finally.

CHAIRPERSON

ORIGINAL APPLICATION NO. 208/2019
(Bhaskar P. Dole & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri V.V. Gujar, learned Advocate holding for Shri R.P. Bhumkar, learned Advocate for the applicants and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicants S.O. to 17.2.2021.

CHAIRPERSON

ORIGINAL APPLICATION NO. 102/2019
(Vishvas S. Thore Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri V.V. Gujar, learned Advocate holding for Shri R.P. Bhumkar, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant S.O. to 17.2.2021.

CHAIRPERSON

ORIGINAL APPLICATION NO. 1087/2019
(Ravindra B. Chobe Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri J.S. Deshmukh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant S.O. to 3.3.2021 for filing rejoinder affidavit, if any.

CHAIRPERSON

ORIGINAL APPLICATION NO. 344/2020
(Sanjay D. Rathod Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, S.O. to 17.2.2021 for filing affidavit in reply of the respondents.

CHAIRPERSON

ORIGINAL APPLICATION NO. 481/2020
(Sunil G. Machewad Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri R.D. Khadap, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, S.O. to 11.2.2021 for filing affidavit in reply of the respondents.

CHAIRPERSON

ORIGINAL APPLICATION NO. 506/2020
(Sudhir G. Dhiware Vs. State of Maharashtra & Ors.)

CORAM : Justice Mridula Bhatkar, Chairperson
DATE : 20.1.2021

ORAL ORDER :

Heard Shri D.R. Irale Patil, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer, S.O. to 8.2.2021 for filing affidavit in reply of the respondents.

CHAIRPERSON

ARJ ORAL ORDERS 20.1.2021